

BEFORE THE BOARD OF PSYCHOLOGIST EXAMINERS

STATE OF IDAHO

* * * * *

In re the Psychologist's)	Case NO. BOL 83-202
License of David Hildebrandt,)	
License No. PSY-97,)	<u>FINAL DETERMINATION</u>
)	
Respondent.)	

* * * * *

Because the facts relevant to this case were established by the pleadings, no evidentiary hearing was held. After briefs were filed with Jean R. Uranga, the appointed hearing officer, she made findings of fact, conclusions of law and a proposed order. Having read the entire record in this case and having heard statements made in extenuation and mitigation by the respondent and his counsel in open meeting, the Board adopts the proposed Findings of Facts and Conclusions of Law prepared by the hearing officer, said findings and conclusions being included herein as if fully set forth.

IT IS HEREBY DETERMINED, by the unanimous decision of the Board of Psychologist Examiners as constituted for this case, that the respondent did violate his ethical duties with respect to a client and that said violation constitutes grounds for the imposition of penalties as provided by Idaho Code § 54-2309(e).

WHEREFORE, IT IS HEREBY ORDERED THAT:

(1) The psychologist's license (No. 97) of the respondent David Hildebrandt, be suspended as of 1 April 1984.

Said suspension shall, after the passage of one year, be terminated provided that the terms and conditions of suspension as set forth have been met by the respondent to the satisfaction of the Board.


TERMS OF SUSPENSION

(1) Respondent shall enter into a course of therapy with a licensed psychologist or psychiatrist approved by the Board. No therapist will be approved who has had an employment, supervisory or educational relationship with the respondent. Said therapy shall consist of not less than thirty-six (36) sessions of at least fifty (50) minutes duration distributed throughout a nine (9) months period. After the therapy has concluded the therapist shall, if appropriate, provide to the Board, in writing, a statement to the effect that the substantive issues relevant to this case were fully addressed during therapy and that the therapist knows of no reason why respondent's license should not be restored.

(2) The respondent shall ~~not~~ hold himself out as a psychologist during the period of suspension. The respondent may act as an extender of the services of another practitioner provided that the person whose services are being extended has previously been approved by the Board. Respondent shall be under this person's direct supervision and control. Said service extension shall be conducted in accordance with Board rules on the supervision of unlicensed persons. Clients shall be

fully informed of the fact that the respondent is extending the services of the supervisor. Clients shall meet with the supervisor as well as respondent. The practitioner whose services are being extended shall share office space and conduct his or her practice on the same site. The supervisor shall inform the board, in writing, of the arrangements under which services are being provided and the manner in which these terms are being met.

DATED this 26 day of April, 1984.


CYNTHIA L. BROWNSMITH, PhD
Member of Board of
Psychologist Examiners

1 BEFORE THE BOARD OF PSYCHOLOGIST EXAMINERS

2 STATE OF IDAHO

3
4 In re the Psychologist's License)
5 of DAVID HILDEBRANDT, License)
6 License No. PSY-97,)
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Case No. BOL 83-202
HEARING OFFICER'S
FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND PROPOSED ORDER

9 Pursuant to an agreement of the parties, this matter is
10 submitted for decision based upon Affidavits and letters filed
11 by Respondent. As a result, no evidentiary hearing was con-
12 ducted. The Board of Psychologist Examiners, hereinafter
13 referred to as the Board, submitted argument through its attor-
14 ney, Fred C. Goodenough, Deputy Attorney General, and David
15 Hildebrandt, hereinafter referred to as Respondent, submitted
16 evidence and arguments through his attorney, B. Lynn Winmill.

17 A Brief was submitted by Respondent on November 28, 1983,
18 and on December 22, 1983, the Board's Brief was received.
19 When no Reply Brief was received from Respondent, the record
20 was closed.

21 FINDINGS OF FACT

22 I

23 Based upon a Complaint dated January 31, 1983, disciplin-
24 ary action was instituted before the Board of Psychologist
25 Examiners against Respondent, pursuant to Idaho Code Sec.
26 54-2309(e), on the grounds that Respondent had engaged in
27 unethical practices by engaging in sexual intercourse with a
28 client, Carolyn Wharton.

II

Respondent is his Answer to the Complaint dated September 19, 1983, in his Affidavit and in his Brief, both dated November 21, 1983, admitted the following facts:

1. Respondent is the holder of Idaho psychologist license No. PSY-97.

2. Respondent treated Carolyn Wharton from May 22, 1979, to September 5, 1979, on weekly and then bi-monthly schedules, for "seizures" and other stress-related problems.

3. Respondent became personally and emotionally involved with Ms. Wharton in August, 1979, and this involvement included sexual intercourse beginning approximately ten days prior to her last session with Respondent on September 5, 1979.

4. Respondent's personal and sexual relationship with Ms. Wharton continued until approximately April 1, 1980.

5. Respondent also saw Ms. Wharton in his office on May 5, 1980, and for six additional appointments in September, October and November, 1981, for similar problems.

6. In an effort to explain his actions, Respondent states that he was under a great deal of stress himself, including the breakup of a group medical practice which resulted in a substantial financial loss, and was also experiencing a mid-life crisis. Respondent also states that he has never been involved in other similar problems.

7. Respondent's practice is currently being supervised by Dr. Shanna J. McGee, and Respondent has resigned from the

1 American Psychological Association for a period of three
2 years.

3 III

4 Respondent also alleges that Ms. Wharton was a willing
5 participant and Respondent filed an Affidavit of Lynn Sweet
6 which indicates that, after one or two sessions, Ms. Wharton
7 stated that she planned to have an affair with Respondent.

8 IV

9 In addition to evidence related to the allegations of the
10 Complaint, Respondent submitted letters from Shanna McGee,
11 Ph.D., the psychologist supervising Respondent's practice;
12 Michael S. Baker, M.D., a partner in Respondent's clinic; and
13 Deborah Dvorak, a client, regarding his professional reputa-
14 tion. This evidence indicates that Respondent is a qualified
15 and well respected practitioner and prior to the present Com-
16 plaint, apparently had no other disciplinary or ethical prob-
17 lems.

18 CONCLUSIONS OF LAW

19 V

20 Pursuant to Idaho Code Sec. 54-2309(e), the Board of
21 Psychologist Examiners may revoke a psychologist's license if
22 a licensee is "found guilty by the board of the unethical prac-
23 tice of psychology as detailed by the current, and future
24 amended, ethical standards of the American Psychological Asso-
25 ciation." In addition, pursuant to Idaho Code Sec.
26 54-2305(c), the Board of Psychologist Examiners also has the
27 authority to revoke or suspend the license of a psychologist
28 and to conduct hearings in connection therewith.

VI

Respondent has admitted the following conclusions of law:

1. Respondent's license is subject to the provisions of Chapter 23, Title 54, Idaho Code; the administrative rules promulgated thereunder by the Board of Psychologist Examiners; and the Rules of Practice and Procedure promulgated by the Bureau of Occupational Licenses, State of Idaho.

2. Sexual intimacies with clients are unethical under Principle 6a of the Ethical Standards of Psychologists, (1979 ed.), copies of which standards are attached to the original Complaint.

3. Pursuant to Idaho Code Sec. 54-2309(e), a licensed psychologist found to have engaged in unethical practices by the Board may have that license revoked, suspended or otherwise acted upon.

VII

Based upon the foregoing Findings of Fact and Conclusions of Law, the Hearing Officer concludes that Respondent engaged in unethical practices by engaging in sexual intimacies with a client.

VIII

Severe disciplinary action, including license revocation, has been upheld against licensed professionals who have been charged with engaging in sexual activities, or taking sexual liberties, with clients. Cardamon v. State Board of Optometric Examiners, 441 P.2d 25 (Colo. 1968); Nevada State Board of Chiropractic Examiners v. Babtkis, 432 P.2d 498

1 (1967); Bernstein v. Board of Medical Examiners, 22
2 Cal.Rptr. 419 (1962).

3
4 PROPOSED ORDER

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6 Based upon the foregoing, the Hearing Officer proposes
7 that Respondent's psychologist license be suspended for a
8 fixed period of time to be set by the Board, in its discre-
9 tion.

10 DATED This 24th day of January, 1984.

11
12 Jean R Uranga
13 JEAN R. URANGA
14 Hearing Officer

15 CERTIFICATE OF MAILING

16 Pursuant to IDAPA 24.20.A.4.S, the Rules of Procedure of
17 the Bureau of Occupational Licenses, I hereby certify that on
18 this 24th day of January, 1984, I served true and correct
19 copies of the foregoing HEARING OFFICER'S FINDINGS OF FACT,
20 CONCLUSIONS OF LAW AND PROPOSED ORDER by depositing copies
21 thereof in the United States mail, postage prepaid, in enve-
22 lopes addressed to:

23 Chuck Goodenough
24 Deputy Attorney General
25 Statehouse
26 Boise, Idaho 83720

27 B. Lynn Winmill
28 Attorney at Law
P.O. Box 4167
Pocatello, Idaho 83205

29 Jean R Uranga
30 JEAN R. URANGA